



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/063,755	05/10/2002	John M. Battaglia	P02-189-BAT	1570
27107	7590	07/20/2004	EXAMINER	
RICHARD A. JOEL ESQ. 496 KINDERKAMACK ROAD ORADELL, NJ 07649			YEUNG, GEORGE CHAN PUI	
			ART UNIT	PAPER NUMBER

1761

DATE MAILED: 07/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/063,755

Applicant(s)

BATTAGLIA, JOHN M.

Examiner

George C Yeung

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 ~~is/are~~ are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 ~~is/are~~ are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☒ objected to by the ~~Examiner~~ Draftsperson (see the Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). *attached PTO-948*). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objection***

Claims 1 and 10 are objected to because of the following informality:

The word "filler" recited in claims 1 and 10, line 1 of each, should be changed to -- a filler material --.

### ***Claim rejections - 35 USC § 112***

Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention for the following reasons:

1. Claim 1 fails to clearly point out that the single crimp/cut die crimps and cuts the filled pasta strands to form a predetermined pasta configuration. An amendment to claim 1, last line, changing "forming" to -- crimping and cutting the filled pasta strands to form -- would obviate this rejection (see page 5, lines 5-9 of the instant specification).
2. There is no antecedent basis for "said independent displacement pumps" as recited in claim 6, line 5.
3. Claim 9 is improper in the recitation of "in accordance with Claim 9" since claim 9 depends upon itself.
4. It is not clear what apparatus structure is intended by the limitation "the pasta is rigatoni" as recited in claim 9, line 3. Note that the limitation recited in

claim 9 is a method limitation and thus it fails to further limit the subject matter of the previous apparatus claim in terms of positive structure.

5. While the preamble of claim 10 calls for a method for producing co-extruded pasta from pasta ingredients and a filler material, claim 10 fails to recite a positive manipulative step of feeding a filler material into the pasta strands to form filled pasta strands. Thus claim 10 is indefinite and incomplete.

6. Claim 10 also fails to clearly and distinctly point out that the crimping and cutting step is carried out with filled pasta strands. An amendment to claim 10, line 9, after "co-extruded" inserting -- filled -- would overcome this rejection.

7. There is no antecedent basis for "the strand flow" as recited in claim 10, line 7. Moreover, it is not clear what is intended by "the stand flow."

8. There is no antecedent basis for "the crimped/cut pasta" as recited in claim 11, line 5.

9. There is also no antecedent basis for "the crimping/cutting die" as recited in claim 12, line 3.

### ***Allowable Subject Matter***

Claims 1-12 are free of the prior art. Claims 1-12 would be allowable if amended to overcome the objection and the rejections under 35 U.S.C. 112 set forth in this Office action.

***Prior Art Citation***

The Annicchiarico patent is cited to show a method and an apparatus for producing a corrugated sheet. The Cuperus patent is cited to show a process for preparing a filled pasta product.


***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George C. Yeung whose telephone number is (571) 272-1412. The examiner can normally be reached on Monday-Friday from 10:30 AM to 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571) 272-1398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

G. C. Yeung/af  
July 16, 2004

  
GEORGE C. YEUNG  
PRIMARY EXAMINER